

**GOVERNMENT OF SIKKIM
PUBLIC WORKS DEPARTMENT**

**Division
Sub- Division**

Branch

**GENERAL DIRECTIONS AND CONDITIONS OF CONTRACT
FOR WORKS ON ITEMS PERCENTAGE RATE TENDER**

GENERAL RULES AND CONDITIONS

- 1 All works proposed for execution by contract will be notified in a form of invitation to tender in public places and signed by the Divisional Engineer/ Superintending Engineer/ Additional Chief Engineer/ Chief Engineer.

This form will state the work to be carried as well as the date for submitting and opening tenders and the time allowed for carrying out the work also the amount of earnest money to be deposited with the tender, and the amounts of the security deposit to be deposited by the successful tender and the percentage, if any to be deducted from bill. Copies of the specifications, designs and drawings and any other documents required in connection with the work signed for the purpose of identification by the Sub-Divisional Officer/ Divisional Officer shall also be open for inspection by the contractor at the office of the Sub-Divisional Officer/ Divisional Officer during office hours.
- 2 In the event of the tender being submitted by a firm it must be signed separately by each member thereof, or in the event of the absence of any partners, it must be signed on his behalf by a person holding a power of attorney authorising him to do so, such power of attorney to be produced with the tender, and it must disclose that the firm is duly registered under the Indian Partnership Act.
- 3 Receipts for the payments made on account of a work when executed by a firm must also be signed by the several partners, except where the contractors are described in their tenders as firm, in which case the receipts must be signed in the name of the firm by one of the partners, or by some other person having authority to give effectual receipts for the firm.
- 4 Any person who submits a tender shall fill up the usual printed form, standing at what he is willing to undertake such item of the work. Tenders which propose any a alteration in the works, specified in the said form of invitation to tender or in the time allowed for carrying out the work, or which contain any other conditions of any sort, will be liable to rejection. No single tender shall include more than one work, but contractors who wish to tender for for two or more works shall submit a separate tender for each. Tenders shall have the name and number of the work to which they refer written outside the envelope.
- 5 The Chief Engineer on his duly authorised assistant, will open tenders in the presence of any intending contractors who may be present at the time, and will enter the amounts of the several tenders in a comparative Statement in a suitable form. In the event of tender being accepted, a receipt for the earnest money forwarded there with shall there upon by given to the contractor who shall there upon for the purpose of identification sign copies of the specification and other doucments mentioned in Rule 1. In the event of a tender shall thereupon be returned to the contractor.
- 6 The accepting authority reserves the right to reject any or all the tenders without assigning any reasons and he will not be bound to accept either the lowest tender or any of the tenders.

- 7 The receipt of an accountant or clerk for any money paid by the contractor will not be considered as any acknowledgement of payment to the Sub-Divisional Officer/Divisional Officer and the contractor shall be responsible for seeing that he procures a receipt signed by the Sub-Divisional Officer/ Divisional Officer or duly authorised cashier.
- 8 The memorandum of work tendered for, and the schedule of material to be supplied by the Public Works Department and their issue rates, shall be filled in and completed in the office of the Sub-Divisional Officer/ Divisional Officer before the tender form issued. If a form is issued to an intending tender without having been so filled in and completed he shall request the office to have this done before he completes and delivers his tender.

CONDITIONS OF CONTRACT

Security deposit

Clause 1- The person / persons whose tender may be, accepted (hereinafter called the contractor) shall (A) (within one day for contract to of Rs. 1, 000 or less, two days for one of Rs. 2, 000 or less, and so on, upto a limit of ten days of the receipt by him of the notification of the acceptance of his tender deposit with the Sub- Divisional Officer/ Divisional Officer in cash or Government securities endorsed to the Sub- Divisional Officers/ Divisional Officers (if deposited for more than 12 months) a sum sufficient with the amount of the earnest money deposited by him with his tender to make up the full security deposit specified in the tender) or (B) (permit Government at the time of making any payment to him for work, done under the contract to deduct such sum as will (with the earnest money deposited by him) amount percent of all money so payable, such deductions to be held by Government by way of security deposit provided always that in the event of the contractor depositing lump sum by way or security deposit at contemplated at (A) above than and in such case, it the sum so deposited shall not amount to percent of the total estimated cost of the work it shall be lawful for Government at the time of making any payment to the contractor for work done under the contract to more up the full percentage of percent by deducting a sufficient sum from every such payments as last aforesaid. All compensation or other sum of money payable by the contractor to Government under the terms of his contract may be deducted from or paid by the sale a sufficient part his security deposit from the interest arising there from or from any sums which may be due or may become due to the contractor by Government on any such deduction or sale as aforesaid, the contractor shall within ten days thereafter make good in cash or Government securities by state of his security deposit endorsed as aforesaid any sum or sums which may have been deducted from, or raised by sale of this security deposit of any part thereof.

This will be the same percentage as that in the tender at (e)

**Compensation for
delay**

Clause -2- The time allowed for carrying out the work as entered in the tender shall be strictly observed by the contractor and shall be reckoned from the date on which the order to commence work is given to the contractor. The work shall through out the stipulated period on the contract be proceeded with all due diligence (time being deemed to be of the essence of the contract on the part of the contractor) and the contractor shall pay as compensation an amount equal to one percent or such smaller amount as the Superintending Engineer* (whose decision in writing shall be final) may decide, on the amount of the estimated cost of the whole work as shown by the tender for everyday that the work remains uncommenced, or unfinished after the proper dates. And further to ensure good progress during the execution of the work, the contractor shall be bound, in all case in which the time allowed for any work exceeds one month to complete one fourth of whole of the work before one fourth of the whole time allowed under the contract has elapsed, one-half of the work before on-half of such time has elapsed, and three fourths of the work, before three-fourths of such time has elapsed. In the event of the contractor failing to comply with any of the conditions herein he shall be liable to pay as compensation an amount equal to one percent, or such smaller amount as the Superintending Engineer (whose decision is writing shall be final) may decide on the said estimated cost of the whole work for every day that the due quantity of the works remains incomplete. Provided always that the entire amount of compensation to be paid under the provisions of this clause shall not exceed ten percent on the estimated cost of the work as shown in the tender.

**Action when
whole of security
deposit is
forfeited.**

Clause 3- In any case on which under any clause of this contractor the contractor shall have tendered himself liable to pay compensation amounting to the whole of his security deposit whether paid in one sum or deducted by instalments/ the Divisional Officer, on behalf of the Government of Sikkim, shall have power to adopt any of the following courses, as he may deem best suited to the interest of Government.

a) To rescind the contractor (of which recission notice in writing to the contractor under the hand of the Divisional Officer shall be conclusive evidence) and in which case the security deposit of Government.

b) To employ labour paid by the Public Works Department and to supply materials to carry out the work, or any part of the work, debiting the contractor with the cost of the labour and the price of the materials (of the amount of which cost and price a certificate of the Divisional Officer shall be final and conclusive against the contractor) and crediting him with the value of the work done, in all respect in the same manner and at the same rates as if it had been carried out by the contractor under the terms of his contract the certfcate of the Divisonal Officer as to the value of the work done shall be final and conclusive against the contractor.

c) To measure up the work of the contractor, and to take such part thereof as shall be unexecuted out of his hands, and to give it to another contractor to complete. In which case any expenses which may be incurred in excess of the sum which would have been paid to the original contractor, if the whole work had been executed by him (of the amount of which excess the certificate in writing of Divisional Officer shall be final and conclusive) shall be borne and paid by the original contractor and may be deducted from the money due to him by Government under the contract or otherwise or from his security deposit or the proceeds of sale thereof, a sufficient part thereof.

In the event of any of the above course being adopted by the Divisional Officer, the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any material or entered into any engagements, or made any advances on account of or with a view to the execution of the work or the performance of the contract. And in case the contract shall be rescinded under the provision aforesaid, the contractor shall not be entitled to recover or be paid any sum for any work therefore actually performed under this contract, unless and until the Sub-Divisional Officer/ Divisional Officer will have certified in writing the performance of such work and the value payable in respect thereof, and he shall be entitled to be paid the value so certified.

Contractor remains liable to pay compensation if action not taken under Clause 3

Clause 4- In any case in which any of the power conferred upon the Divisional Officer by clause 3 hereof shall have become exercisable and the same shall not be exercised, the non exercise hereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the contractor for which by any clause or clauses hereof he is declared liable to pay compensation amounting to the whole of his security deposit and the liability of the contractor for past and future compensation shall remain unaffected. In the event of the Divisional Officer putting in force either of power (a) or (c) vested in him under the preceding clause he may, if he so desires take possession of all or any tools, plant, materials and store in or upon the works, or the site thereof of belonging to the contractor, or procured by him

Power to take possession of or require removal of or sell contractor's plants.

and intended to be used for the execution of the work or any part thereof paying or allowing for the same in account at the contractor rates, or in case of these not being applicable, at current market rates to be certified by the Divisional Officer whose certificate thereof shall be final, otherwise the Divisional Officer may by notice in writing to the contractor or his clerk of the works, foreman or other authorised agent require him to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice), and in the event of the contractor failing to comply with any such requisition the Divisional Officer may remove them at the contractor's expenses to sell them by auction or private sale on account of the contractor and at his risk in all respects and the certificate of the Divisional Officer as to the expenses of any such removal and the amount proceeds and expenses of any such sale shall be final and conclusive against the contractor.

Extension of time

Clause 5- If the contractor shall desire an extension of the time for completion of the work on the grounds of his having been unavoidably hindered its executed or on any other ground he shall apply in writing to the Divisional Officer within 30 days of the date of the hindrance on account of which he desires such extension as aforesaid and the Divisional Officer if in his opinion (which shall be final) reasonable grounds be shown therefore authorise such extension of time, if any , as may, in his opinion be necessary or proper.

Final certificate

Clause 6- On completion of the work, the contractor shall be furnished with a certificate by the Sub-Divisional Officer/ Divisional Officer (hereinafter called the Engineer-In-Charge), of such completion, but no such certificate shall be given, nor, shall the work be considered to be completed, until the contractor shall have removed from the premises on which the work shall be executed all scaffolding, surplus materials and rubbish, and cleaned of the dirt from all wood work doors, windows, walls, floors, or other parts of any buildings in upon or about which the works is to be executed or of which he may have had possession for the purpose of the execution thereof nor until the work shall be have been measured by the Engineer-In-Charge whose measurements shall be binding and conclusive against the contractor. If the contractor shall fail to comly with the requirements of this clause as to removal of scaffolding, surplus materials and rubbish, and clearing off dirt on or before the date fixed for completion of the work, the Engineer-In-Charge may at the expenses of the contractor remove such scaffolding, surplus materials and rubbish and dispose of the same as he thinks fit and clean off such dirt as aforesaid and the contractor shall forthwith pay the amount of all expenses incurred and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid accept for any sum actually realised by the sale thereof.

Payment on intermediate certifiacate to be regarded as advances

Clause 7- No payments shall be made of work estimated to cost less than rupees on thousand, till after the whole of the work shall have been completed and a certificate of completion given. But in the case of work estimated to cost more than rupees one thousand, the contractor shall on submitting the bill therefore be entitled to receive a monthly payment proportionate to the part thereof then approved and passed by the Engineer-In-Charge whose certificate of such approval and passing of the sum so payments shall be final and conclusive against the contractor. But all such intermediate payments shall be regarded as payments by way of advances against the final payment only and not as payments for work actually done and completed, and shall not preclude the requiring of bad unsound and imperfect or unskilful work to removed and taken away and reconstructed or re-erected or be considered as an admission of the due performance of the contract or any part therof in any respect or accruing of any claim nor shall it conclude determine, or effect in any way the powers of the Engineer-In-Charge under these conditions or any of them as to final settlement and adjustment of the account of otherwise, or in any way very or effect the contract. The final bill shall be submitted by the contractor within one month of the date fixed for completion of the work, otherwise the Engineer-In-Charge certificates of the measurement and of the total amount payable for the work accordingly shall be final and binding on all parties.

**Bill to
submitted,
monthly**

be

Clause 8- A bill shall be submitted by the contractor each month on or before the date fixed by the Engineer-In-Charge for all work executed in the previous month and the Engineer-In-Charge shall take or cause to be taken the requisite measurement for the purpose of having the same verified and the claim as per as admissible, adjusted if possible before the expiry of ten days from the presentation of the bill, if the contractor does not submit the bill within the time fixed as aforesaid, the Engineer-In-Charge may depute a subordinate to measure of the said work in the presence of the contractor, whose countersignature to the measurement list will be sufficient warrant, and the Engineer-In-Charge may prepare a bill from such list which shall binding on the contract in all respects.

**Bill to be printed
forms**

Clause 9 - The contractor shall submit all bills on the printed forms to be had on application at the office of the Engineer-In-Charge and the charges in the bill shall always be entered at the rates specified in the tender or in the case of any extra work ordered in pursuance of the conditions, and mentioned or provided for in the tender at the rates hereinafter provided for such work.

**Payment of
contractor's bill
to banks.**

**of
bill**

Clause 9 A - Payment due to contractor may if so desired by him, be made to his bank instead of direct to him provided that the contractor furnishes to the Engineer-In-Charge (1) and authorisation in the form of a legally valid document such as power of attorney confessing authority on the bank to receive payment and (2) his own acceptance of the account made out as being due to him by Government or his signature on the bill or other claim preferred against Government, before settlement by the Engineer-In-Charge of the account or claim by payment to the bank. While the receipt given by such bank shall constitute a full and sufficient discharge for the payment, the contractor should, wherever possible present his bill duly received and discharged through his bankers. Nothing herein contained as shall operate to create favour of the bank any rights or enquiries vis-a-vis the President of India.

***Stores supplied
by Government***

Clause 10- If the specification or estimate of the work provides for the use of any special description of material to be supplied from the Engineer-In-Charge's store, or if it is required that the contractor shall use certain stores to be provided by Engineer-In-Charge (such material and stores, and the prices to be charged therefore as hereinafter mentioned being so far practicable for the convenience of the contractor but not so as in any way to control the meaning or effect of his contract specified in the schedule or memorandum hereto annexed), the contractor shall be supplied with such materials and stores as required for time to time to be used by him for the purpose of the contract only, and the value of the full quantity of material and stores so supplied at the rates specified in the said schedule or memorandum may be set off or deducted from any sums then due or thereafter to become due to the contractor under the contractor or otherwise or against for from the security depositor the proceeds of sale thereof, if the same is held in Government securities, the same or a sufficient portion thereof being in this case sold for the purpose. All materials supplied to the contractor shall remain the absolute property of Government, and shall not on any account be removed from the site of the work, and shall at all time be open to inspection by the Engineer-In-Charge. Any such materials unused and in perfect good condition at time of the completion or determination of the contract shall be returned to the Engineer-In-Charge's store, if by a notice in writing under his hand he shall require but contractor shall not be entitled to return any such materials unless with such consent and shall have no claim for compensation on account of any such materials so supplied to him as aforesaid being unused by him, or for any wastage in or damage to any such materials.

If cement is to be supplied by Government the contractor shall at his own cost build a separate temporary hut a theft proof godown for cement. Every cement godown so-built shall be provided with two locks on each door, the key of one lock at each door shall remain with the Engineer-In-Charge or his representatives and that of the other lock with the contractor's authorised agent at site of works so that cement is removed from the godown only according to daily requirements with the knowledge of both parties.

***Works to be
executed in
accordance with
specification
drawings orders
etc.***

Clause 11- The Contractor shall execute the whole and every part of the work in the most substantial and workman like manner and both as regards materials and otherwise in every respect in strict accordance; with the specification. The contractor shall also conform exactly, fully and faithfully to the designs drawings and instructions in writing relating to the work signed by the Engineer-In-Charge and lodged in office and to which the contractor shall be entitled to have access at such office or on the site of the work for the purpose of inspection during office hours, and the contractor; shall, if he so requires be entitled at his own expenses to make or cause to be made copies of the specifications and of all such designs drawing and instructions as aforesaid.

***Alterations in
specification &
designs.***

***Do not invalidate
contractors.***

***Extension of time
in consequence
of alterations.***

***Rates for works
not in estimates
or schedule.***

***No compensation
for alteration of
work to be
carried out.***

Clause 12- The Engineer-In-Charge shall have power to make any alterations and omissions and additions to or substitutions for the original specifications, drawing, designs and instructions that may appear to him to be necessary, or advisable during the progress of the work and the contractor shall be bound to carry out the work in accordance with any instruction which may be given to him in writing signed by the Engineer-In-Charge and such alterations, omissions and additions or substitutions shall not invalidate the contract, and any altered additional or substituted work which the contractor may be directed to do in the manner above specified as part of the work shall be carried out by contractor on the same conditions in all respect on which he agreed to do the main work and at the same rates as are specified in the tender for the main work. The time for the completion of the work shall be extend in the proportion that the altered, additional or substituted work bears to the original contract work and if the altered additional or substituted work includes any class of work, shall be carried that if out at the rates entered in the schedule of rates of the S.P.W.D. which was in force at the time of the acceptance of the contract minus/plus the percentage which the total tendered amount bears to the estimated cost of the entire work put to tenders and if he altered, additional or substituted work is not entered in the said schedule or rates, then the contractor shall within seven days of the date of his receipt of the order to carry out work inform the Engineer-In-Charge of the rate which it is his intention to charge for such work, and if the Engineer-In-Charge does not agree to the rate he shall, by notice in writing be at liberty to change his order to carry out such class of work and arrange to carry it out in such manner as he may consider advisable, provided always that if the contractor shall commence work of incur any expenditure in regard thereto before the rates shall have been determined as lastly hereinbefore mentioned, then in such case he shall only be entitled to be paid in respect to the work carried out or expenditure incurred by him prior to the date of the determination of the rate as aforesaid according to such rates as shall be fixed by the Engineer-In-Charge, in the event of a dispute, the decision of the Superintending Engineer of the Circle shall be final.

Clause 13- If at any time after the commencement of the work the Government shall for any reason whatever not require the whole thereof as specified in the tender to be carried out the Engineer-In-Charge shall give notice in writing of the fact to the contractor who shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might derived from the execution of the work in full but which he did not derive in consequence of the full amount of the not having been carried out, either shall be have any claim for compensation by reason of any alterations having been made in the original specification, drawing, design and instructions which shall involve any curtailment of the work as originally contemplated.

Action and compensation payable to in case of bad work

Clause 14 - If it shall appear to the Engineer - In - Charge or his subordinate in charge of the work that any work has been executed with unsound imperfect or unskillful workmanship, or with material of any inferior description, or that any materials or articles provided by him for the execution of the work are unsound or of a quality inferior to the contract for, otherwise not in accordance with the contract the contractor shall on demand in writing from the Engineer - In - Charge specifying the work materials or articles complained of notwithstanding that the same may have been inadvertently passed certified and paid for, forthwith rectify, or remove and reconstruct the work so specified in whole or in part, as the case may require or as the case may be, remove the materials or articles so specified provides other proper and suitable materials of articles at his own proper charge and cost, and in the event of his failing to do so within a period to be specified by the Engineer - In - Charge in his demand aforesaid, then the contractor shall be liable to pay compensation at the rate of one percent, on the amount of the estimate for every day not exceeding ten days, while his failure to do so shall continue and in the case of any such failure the Engineer - In - Charge may rectify or remove, and re-execute the work or remove and replace with others, the materials of articles complained of as the case may be at the risk and expense in all respect of the contractor.

Works to be open to inspection.

Clause 15 - All works under or in course of execution of executed in pursuance of the contractor shall at all times be open to inspection and supervision of the Engineer - In - Charge and his subordinates and the contractor shall at all time during the usual working hours and at all other times at which reasonable notice of the intention of the Engineer - In - Charge his subordinate to visit the work shall have been given to the contractor either himself be present to receive orders in instruction, or have a responsible agent duly accredited in writing present for that purpose. Orders given to the contractors agent be considered to have the same force as if they had been given to the contractor himself.

Contract of responsible agent to present

Notice to be given before work covered up.

Clause16 - The contractor shall give not less than five day's notice in writing to the Engineer - In - Charge or his subordinate in charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before the same is so covered up or placed beyond the reach of measurement and shall not cover up or place beyond the reach of measurement, any work without the consent in writing of the Engineer - In - Charge or his subordinate in charge of the work, and of any work shall be covered up or placed beyond the reach of measurement without such notice having been given of consent obtained, the same shall be uncovered at the contractors expenses, or in default thereof no payment or allowance shall be made for such works of the materials with same was executed.

Contractor liable for damage done and imperfection for 3 months after certificate.

Clause 17 - If the contractor or his work people or servants shall break, deface injure or destroy any part of building in which they may be working or any building, road, road curbs, fence, enclosures, water pipes cables drain, electric or telephone posts or the grassland or cultivated ground contiguous to the premises on which the work or any part of it is belong or if any damage shall happen to work, while in progress, from any cause whatever or any imperfection become apparent in within three months (six months in the case of a road work) after a certificate final or otherwise of its completion shall have been given by the Engineer - In - Charge as aforesaid, the contractor shall make the same good at his own expense, or in default the Engineer - In - Charge may cause the same to be made good by other workman and deduct the expense (of which the certificate of the Engineer - In - Charge shall be final) from any some that may be then or at any time there after may become due to contractor, from his security deposit or the proceeds of sale thereof or of a sufficient portion thereof. The security deposit or the contractor shall not be refunded before the expiry of three months (six months in the case of road work) after the issue of the certificate final or otherwise of Engineer - In - Charge half on the security deposit is sufficient to meet all the liabilities of the contractor under this contract half of the deposit will be refundable after three months and the remaining half after six months of issue if the said certificates of completion.

The contractor shall be responsible for rectifying defects in asphaltic work noticed within a year from the date of completion of the work and the portion the security deposit relating to asphaltic work shall be refunded after the expiry of this period.

Contractor to supply plants ladder's scaffolding etc.

Clause 18 - The contractor shall supply at his own cost material (except such special materials, if any as may accordance with the contract be supplied from the Engineer - In - Charge's stores), plants tools appliances, ladders, cordage, tackle, scaffolding and temporary works requisite of proper for the proper execution of the work, whether original, altered or substituted, and whether included in the specification or other documents forming part of the contract or referred to in these conditions or not or which may be necessary for the purpose of satisfying or complying with the requirement of the Engineer - In - Charge as to any matter as to which under these conditions he is entitled to be satisfied, or which he is entitled to require together without carriage therefore to and from the work. The contractor shall also supply without charge the requisite number of persons with the means and materials necessary for the purpose of setting out works and counting, weighting and assisting in the measurement of examination at any time and from time to time of the work of materials. Failing this so doing the same may be provided by the Engineer - In - Charge at the expense of the contractor and the expenses may be deducted from any money due to the contractor under

And this damages arising from non-provision of lights, fencing etc.

the contract or from this security deposit or the proceeds of sale thereof, or of a sufficient portion thereof the contractor shall also provide all necessary fencing and lights required to protect the public from accident, and shall be bound to bear their expense of defence of every suit, action or other proceedings at law may be brought by any person for injury sustained owing to neglect of the above precautions, and to pay and damage and costs which may awarded in any such suit action or proceeding to any such person of which may with the consent of the contractor be paid to compromise any claim by any such person.

Clause 18 A - In every case in which by virtue of the provision of section 12 Sub Section (1) of the workmen's Compensation Act 1923 Government is obliged to pay compensation to a workman employed by the contractor the amount of the compensation so paid, and without prejudice to the rights of Government under Section 12 Sub Section (2) of the said Act. Government shall be at liberty to recover such amount of any part thereof by deducting it from the security deposit or from any sum due by the Government shall not be bound to contest any claim made against it under section 12, Sub-Section (1) of the said Act except on the written request of the contractor and upon his giving to Government full security for all cost for which Government might become liable in consequence of contesting such claim.

Clause 19 - For all the works to be executed by the contractor, the following conditions for the employment of labourers should be strictly followed by the contractor.

(i) The Contractor must employ local people or people whose nationality is not in doubt for execution works in Sikkim. Hiring of labourers from outside the state should be restored to only when it is inevitable.

(ii) The labours employed by the contractor should be of Indian Origin only and if it becomes necessity to bring labours from outside Sikkim, a list showing the name of such labourers should be furnished by the contractors to the department for forwarding the same to the Police for conduct of verification and issue of identification slip with photograph indicating the validity period.

(iii) It will be the responsibility of the contractor to ensure that those labourers who are brought from outside the state of Sikkim and who have been given such identity slip expires. The payment of final bill be made only on production of certificate regarding completion of repatriation of such labourers.

(iv) If the foreign nationals are found to have been employed by a contractor in contravention of the provision of this clause, he shall be prosecuted under the foreigners Act as one harbouring the foreign nationals.

Labour

Clause 19A - No female labour shall be employed within the limits of a contonment

Clause 19AA - No labour below the age of twelve years shall be employed on the work

Clause 19B - (a) The contractor shall pay not less than fair wages to labourer engaged by him on the work.

Explanation-

**Fair
Clause wages**

"Fair wages" means wages whether for time or place work notified at the time of inviting tenders for the works and where such wages have not been so notified the wages prescribed by the Central Public Works Department for the district in which the work is done.

(b) The contractor shall notwithstanding the provisions of any contract to the contrary, caused to be paid a fair wage to labourers indirectly engaged in the work, including and labour engaged by his sub-contractor in connection with the said work, as if the labourers have been immediately employed by him.

(c) In respect of all labour directly or indirectly employed in the works to the performance of the contractor's parts of this agreement the contractor shall comply with or cause to be complied with the Central Public Works Department contractor's labour regulations made by Government from time to time in regard to payment of wages, age, period, deductions from wages, recovery of wages not paid on deduction of unauthorisedly made, maintenance of wage register, wages card, publication of scale of wages and other terms of employment inspection and submission of periodical returns and all other matters of a like nature.

(d) The Executive of Sub - Divisional Officer concerned shall have the right to deduct from the moneys due to the contractor, any sum required for estimated to be required for making good the loss suffered by a worker or workers by reason non - fulfillment of conditions of the contract for the benefit of the worker, non-payment of wages or deduction made from his or their wages, which are not justified by terms of the contract are non-observance of the regulations.

(e) Vis-à-vis Central Government of contractor shall be primarily liable for all payments to be made under and for the observance of the regulation aforesaid, without prejudice to his rights to claim indemnity from his Sub-contractors.

(f) The regulation aforesaid shall be deemed to be a part of this contract any breach thereof shall be deemed to be a breach of his contract.

Clause 19 C- The contractor shall at his own expense provide to arrange for the provision of foot wear for any labour doing cement mixing work (the contractor has undertaken to execute under this contract) to the satisfaction of the Engineer - In - Charge and on his failure to do so Government shall be entitled to provide same and recover the cost from the contractor.

Clause 19 D - The contractor shall submit, by the 4th & 19th of every month to the Engineer - In - Charge a true statement showing, in respect the second half of the proceedings month and the first half or the current month, respectively: (1) the number of labourers employed by him on the work (2) - their working hours (3) the wages paid to them, (4) the accidents that occurred during the said fortnight showing the circumstances under which they happened and the extent of damage and injury caused by according to clause 10-f and the amount paid to them failing which the contractor shall be liable to pay Government a sum not exceeding Rs. 50 for each default of materially incorrect statement. The decision of the Executive Engineer shall be final in deducting from any bill due to the contractor the amount levied as fine.

**Health
Sanitary
arrangement
for
workers**

and

Clause 19E - In respect of all labour directly or indirectly employed in the works for the performance of the contractors part of this agreement, the contractor shall comply with or cause to be complied with all the rules framed by Government from time for the protection of health and sanitary arrangements for workers employed by the Central Public Works Department and its contractor.

Clause 19 F - Maternity Benefit Rules for female workers employed by contractor Leave and pay during leave shall be regulated as follows:-

1. LEAVE (i) In case delivery - Maternity leave not exceeding 8 weeks, 4 weeks upto and including the day of delivery and 4 weeks following that day.

(ii) In case of miscarriage - upto 3 weeks from the date of miscarriage.

2. PAY (i) In case delivery - leave pay during maternity leave will be at the rate of the woman's average daily earning calculated on the total wages earned on the days when full time work was done during a period of three months immediately preceding the date on which who gives notice that the except to be confined, or at the rate of twelve annas a day whichever is greater.

(ii) in case of miscarriage - leave pay at the rate of average daily earning calculated on the total wages earned on the days when time work was done during a period of 3 months immediately preceding the date of such miscarriage.

CONDITIONS FOR THE GRANT OF MATERNITY LEAVE

No maternity leave Benefit shall be admissably to a woman unless she has been employed for a total period not less than 6 months immediately preceding the date on which she proceed on leave.

**Works
Sundays**

on

Clause 20 - No work shall be done on sundays without the sanction in writing of the Engineer - In - Charge.

Work not to be sublet contract may be rescinded and security deposit forfeited for subletting bribing or if contractor is becomes insolvent.

Sum payable by way of compensation to be considered as reasonable compensation

Charges in constitution of firm.

Works to be under direction of Superintending Engineer

Settlement of disputed Arbitration.

Clause 21 - The contractor shall not be assigned or sublet without the written approval of the Divisional Officer, and if the contractor shall assign or sublet this contract, or attempt so to do, or become insolvent or commerce are insolvency proceedings or loan, prerequisite reward or advantage pecuniary or otherwise shall either directly be given, promised, or offered by the contractor, or any of his servants or agents to any public office or employment or if any such officer or person shall become in any way thereupon by notice in writing rescind the contract and the security disposal of the Government and the same consequences shall ensure as if the contractor had been resided under clause 3 hereof and in addition the contractor shall not be entitled to recover or be paid for any work therefore actually performed under the contract.

Clause 22 - All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of Government without reference to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

Clause 23 - In the case of a tender by partners any change in the constitution of firm shall be forthwith notified by the contractor the Engineer - In - Charge for his information.

Clause 24 - All work to be executed under the contract shall be executed under the direction and subject to the approval in all respects of the Superintending Engineer of the Circle for the time being who shall be entitled to direct at what point or points and in what manner they are to be commenced and from time to time carried on.

Clause 25 - Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specification, designs, drawings and instructions herein before mentioned and as to the quality of workmanship or material used on the work, as to any other questions, claim, right matters or things whatsoever, in any way arising out of, relating to the contract designs drawing specifications, estimates instructions, order, or these conditions, or otherwise concerning the works, or the execution or failuar to execute the same, whether arising during the progress of the work or after completion or abandonment thereof shall be referred of the sole arbitration of the Chief Engineer, Additional Chief Engineer, Sikkim Public Works Department, and if the Chief Engineer/Additional Chief Engineer is unable or unwilling to act to the sole arbitration of other person appointed by the Chief Engineer/ Additional Chief Engineer willing to act as such arbitration. It will be no objection to any such appointment that the arbitrator so appointed is Government servant, that he had or deal with the matters to which the Agreement relates and that in course of his duties as such Government servant he had expressed views in all or any of the matters in dispute or difference. The award of the arbirator so appointed shall be final conclusive an binding on all parties to this contract.

**Stores European
or American
manufacture to
be obtained from
Government.**

Clause 26- The contractor shall obtain from the store of the Engineer-In-Charge all stores which may be required for the work, or any part thereof or in marking up articles, required thereof or in connection therewith, unless he has obtained permission in writing such stores and article as may be supplied to contractor by the Engineer-In-Charge will debited to the contractor in his account at the rates shown in the schedule attached to the contractor and of they are not entered in the schedule they will be debited at cost price which for the purpose of this contract shall include the cost of carriage and all other expenses whatsoever, which shall been incurred in obtaining delivery of the same at the stores aforesaid.

**Lumpsums in
estimates.**

Clause 27- When the estimate on which the tender is made include lump sums in respect of parts of the work the contractor shall be entitled to paymet in respect items of work involved or the part of the work in question at the same rates are payable under this contract for such items or if the part of the work in question is not, in the opening of the Engineer-In-Charge, capable of measurement, the Engineer-In-Charge may at his discertion pay the lump sum amount entered in the estimate, and certificate in writing of the Engineer-In-Charge shall be final and conclusive against the contractor with regard to any sum or sums to him under the provisions, of this clause.

**Action where no
specification.**

Clause 28- In the case of any class for which there is no such specification as is mentioned in rule, such work shall be carried out in accordance with the prevalent specification, and in the event of there being no prevailing specification then in such case the work shall be carried out in respects in accordance with the instruction and requirements of the Engineer-In-Charge.

Definition of work

Clause 29- The expression 'work' where used in these conditions shall unless there be something either in the subject or context repugnant to such construction, be conjured and taken the works by or by virtue of the contract contracted to be executed whether temporary of permanent and whether original, altered substituted or a additional.

Interpretation Clause-

The Governor means the Governor of Sikkim and his successors,

The Divisioal Officer means the Divisional Office for the time being of the Divisional concerned. The Sub-Divisional Officer means the Sub-Divisional Officer for the time being of Sub- Divisional concerned.

Works importing the singular number only include the plural and vice versa.

ADDITIONAL CONDITIONS

i) Materials obtained from dismantlement - Contractor in course of their work should understand that all materials (e.g.stone and other material) obtained in the work dismantling etc, will be considered as Government property and will be disposed of to the best of advantage of the Government.

ii) The contractor undertakes to have the site clean, free from rubbish to the satisfaction of the Engineer-In-Charge. All surplus materials, rubbish etc. will be removed to the places fixed by the Engineer-In-Charge and nothing extra will be paid.

iii) Inconvenience to public - The contractor shall not deposit materials on any site which will seriously in convenience to the public. The Engineer-In-Charge may require the contractor to remove any materials which are considered by him to be a danger inconvenience to the public or causes them to be removed at the contractor's cost.

iv) Hutting for labour -The contractors shall at his/their own cost provide his/their labour with hutting on the approved site and shall make arrangements for conservancy and sanitation in the labour camp to the satisfaction of the local Public Health and Medical authorities. He/they shall also at his/their own cost make arrangement for lying of pipe-lines for water supply to his/their labour camp from the existing mains wherever available and shall pay all fees, charges and expenses in connection wherewith incidental thereto.

v) Prohibition against the Employment of Coal mining of Controlled area Labour -The contractor shall not employ Coal-mining or controlled area labour failing under any category whatsoever on or in connection with the work or recruit labour from area within the radius of 20 miles of the controlled area. Subject to above the contractor shall employ imported labour only i.e., depot imported labour or labour imported by contractor from areas from which import is permitted. Where ceiling price for imported labour has been fixed by provincial or Regional Labour Committees not more than that ceiling price shall be paid to the labour by the contractor.

The contractor shall immediately remove any labour who may be pointed out by the Engineer - In - Charge as being a Coal-mining or controlled area labour. Failure to do so shall tender the contractor liable to pay to Government sum calculated to the rate of Rs.10/-per day per labour. The certificate of the Engineer - In - Charge about the number of the Coal- mining or controlled area labour and the number of the days which they worked shall be final and binding upon all parties this contract .

It is declared and agreed between the parties that the aforesaid stipulation in this clause is one in which the public are interested within the meaning of the exception of section 74 of the Indian Contract, 1872.

vi) Conditions re: Water supply arrangement - If water required for execution of work is supplied to the contractor by Government it will be subject to the conditions and rates laid down in the local rules for the supply of (drinking) water in force at the time of the acceptance of contract . The contractor shall make his own arrangement for water connection and lying of pipe lines of source of supply from existing mains.

OR

vii) The contractor shall make his own arrangement for water required for the work and nothing extra will be paid for the same.

viii) Contractor shall be required to add 1 percent-Cresol to all water used in construction.

ix) Delay in obtaining materials by the Department - Owing to difficulty in obtaining certain materials in the open market due to the war, the Government have undertaken to supply materials specified in page 16 of the tender form at rates stated therein. There may be delay in obtaining the materials by the Department, and contractor is therefore required to keep himself in touch with the day to day position, regarding the supply of materials from the Engineer-In-Charge and to so adjust the progress of the work that their labour may not remain idle nor may there be any other claim due to or arising from delay in obtaining the materials. It should be clearly understood that no claim whatsoever shall be entertained by the Government on account of delay in supplying materials.

x) Return of surplus materials - Notwithstanding anything contained to the contract in any or all of the clauses of this contract, where any material for the execution of the contract are procured with the assistance of Government either by issue from Government stock or purchase made under orders of permits or licenses issued by the Government the contractor shall hold the said materials economically and solely for the purpose of the contract and not dispose of them without the permission of the Government and return if required by the Engineer-In-Charge all surplus or unserviceable materials that may be left with him after the completion on of the contract at its termination of any reason whatsoever on being paid or credited such price as Engineer-In-Charge shall determine having due regard to the condition of the materials. The price allowed to the contractor however shall not exceed the amount charged to him excluding the storage charge if any. The decision of the Engineer-In-Charge shall be final and conclusive. In the event of breach of the aforesaid condition the contractor shall in addition to throwing himself upon to action for contravention of the terms of the licenses or permit and or for criminal breach of trust be liable to Government for all moneys, advantage or profits resulting or which in the usual course have resulted to him by reason of breach.

xi. Delay in obtaining petrol coupons and priority certificate - Owing to difficulty in obtaining petrol and Railway wagons or the carriage of materials due to the war, sikkim P.W.D. agree to tender assistance in procuring coupons and in obtaining priority from approve source of the carriage of materials required for the work subject to condition specified in this tender. There may be delay in arranging the above mentioned facilities by the Department and the contractor shall therefore keep himself in touch with the day to day position, regarding the said facilities and shall so adjust the progress of the work that their labour or lorries may not remain idle and that there will not be any claim to or arising from that delay in arranging the above mentioned facilities. It should be clearly understood that no claim whatsoever shall lie against Government on account of delay in issuing petrol coupons and the supply of Railway wagons.

xii. Extension of time for completion of work - If the contractor shall desire an extension of the time for completion of the work under clause 5 of the contract no application for such extension will be entertained if it is not received in sufficient time to allow the Divisional Officer to consider it and the contractor will be responsible for the consequences arising out of the negligence in this respect.

xiii. (a) Conditions re: Road Rollers - Hire charges for road rollers shall be recovered at Rs..... per day per roller.

(b) The roller will be made over and taken back at the roller shed and charges will be received at the prescribed rates from the date of the roller is made over till the date of its return even though the roller may not have been working for any cause except for a major break down necessitating return to the workshop & other conditions enforced from time to time.

(c) The running expenses included free of further charges the following Services of Driver Fireman and a cleaner also lubricating oil, stores for cleaning purposes and stem coal to light up not exceeding 1/2 cwt the later only when the roller is issued and all the charges such as cost of steam coal fuel, fire wood, matches, kerosine oil etc. and water for working and washing of steam rollers and pay of chowkidar guarding the roller at night shall however be borne by the contractor.

(d) Recovery on account of fire charge for road rollers shall be made for the minimum number of days worked out on the assumption that the maximum quantity of metal that can be consolidated by a roller per day is sft. If the roller be required to work for longer period due to bad arrangement of contractor, shortage of water, or any other cause whatever, additional hire charges shall be levied at the specified rates.

xiv. i) Condition relating to of asphaltic materials - The contractor undertakes to make arrangements for the supervision of the work by the firm supplying tar or bitumen used.

ii) The contractor shall collect the total quantity tar or bitumen required for the work as per standard formulas, before the process of painting is started and shall hypothecate it to the Engineer-In-Charge. If any bitumen or tar remain unused on completion of the work on account of lesser use of materials in actual execution for reason other than authorised charges or specification and abandonment of portion, of work a corresponding deduction equivalent to the cost of unuse material as determined by the Engineer-In-Charge shall be made and the materials returned to the contractors. Although materials are hypothecated to Government the contractor undertakes the responsibility for their proper watch safe custody and protection against all risks. The materials shall not be removed from the site of work without the consent of the Engineer-In-Charge in writing.

iii) The contractor shall be responsible for rectifying defects noticed within a year from the date of completion of the work and the portion of the security deposit-relating to public work, shall be refund after the expiry of this period.

xv. a) Employment of certified Plumbers - Certified Plumbers should be employed by the contractor on the work for main sewer, Major Irrigation, filtered and unfiltered main.

b) Employment of Licensed Electrical Foreman (for Electrical work only) - The contractor should employ a licensed Electrical Foreman to supervised the work.

xvi. No compensation for restriction or work relating Khas tatties to be carried out shall for any reason whatsoever not require the whole or any part to be thereof to be carried out the Engineer-In-Charge shall give notice in writing of the fact to the contractor who shall be paid for the Khas tatties actually in stated in the building concerned and the contractor shall not have claim for compensation on any account.

xvii. Exemption from the payment earnest money - I/We have already furnished security to the Government of Sikkim in lieu of earnest money and have deposited with the Chief Engineer, Sikkim Public Works Department Gangtok, Government security of the market value of Rs.5,000/- Rs.20,000/- the sum of Rs. 5,000/- Rs. 20,000/- as earnest money in individual case and I/We thereof claim exemption in terms of the Bond executed by We/us and bearing date theday of 200..... necessity of depositing earnest money in against respect of the tender for work. I/We agree that should I/We fail to commence the work specified in the above memorandum or should I/We not deposit the full amount of security deposit specified in above memorandum in accordance with clause 1 (A) of the said condition of contract and an amount equal to the amount of the earnest money mentioned in the form of invitation of tender shall be absolutely forfeited to the **Governor of Sikkim** be recovered out of the deposit in so far as the same may extend in terms of the said Bond and in the event deficiency out of any other money due to me/us or otherwise.

xviii. Exemption from security deposit and earnest money- The person tender is accepted has deposited a lump sum 50,000 to secure exemption from the payment of earnest money as security deposit individual cases and it is hereby agreed that any sum of money payable by him/them to Government in connection with this work may be realised from this sum.

xix. Condition relating to the execution of a additional works - No deviation from specification stipulated in the contract of additional items of work shall be carried out by the contractor unless the rates if the substituted altered or additional items have been approved in writing by the competent authority, failing which Government will not be bound to entertain any claim on this account.

xx. I am/We are not related to any of the officers employed by the Sikkim P.W.D or any officer of the rank of Assistant Secretary or above in the Ministry of M.H.& S.

xxi. The whole work may be split up between two or more contractor or accepted in part and not in entirely if considered expedient.

xxii. Sales Tax or any tax on materials in respect of this contract, shall be payable by the contractor and Government will not entertain any claim whatsoever in this respect.

Signature of Contractor

Signature of Divisional Officer.

GOVERNMENT OF SIKKIM
PUBLIC WORKS DEPARTMENT

The government has been pleased to modify clause 17 of the general direction and condition of the contracts follows which will come into force with immediate effect.

The contractor or his work people or servants shall break, injure, deface or destroy and part of the building in which they may be working or any building , roads, curbs fence enclosure, water pipes, cables, drains electric or telephone posts or wire, trees, grass land or cultivated grounds contiguous to the premises on which the work, while in progress the compensation for such damages will be made good by the contractor, if the contractor fails to do so within 30 days of written order of the Engineer-In-Charge, the Engineer-In-Charge will deduct an equivalent amount of compensation (all or any payment due to the contractor for the work or any other payment due to the contractor from State. The assessment or the compensation of damage of land crops, trees, grass, etc. will be made by the District Collector of the district on which the work is being carried out or his representative and assessment for damages to road, buildings water pipes, drains etc. will assessed by the Engineer-In-Charge. The contractor is not liable to pay the compensation for damages if the damage is considered to be inaccessible for progress of the work he is entrusted.

The Engineer-In-Charge will be final authority to ascertain whether the damage was unavoidable or not.

In the case of dispute regarding classification damage decided by the Engineer-In-Charge, the decision of the Chief Engineer, Sikkim P.W.D. will be final and binding.

In case of any imperfection becoming apparent in the work within six month after a certificate, final or otherwise of its completion shall have been given by the Engineer-In-Charge as aforesaid the contractor shall make the same good at his own expenses of which the certificate of the Engineer-In-Charge shall be final from any sums that may be then, or at any time thereafter may become, due to the contractor, or from his security deposit of the proceeds of scale therefore of sufficient portion thereof.

The Security deposit of the contractor shall not be refunded before the expiry of the period.

Sd/-
L. B. Chettri
Dt. 5.7.83

SIKKIM PUBLIC WORKERS DEPARTMENT

AGENDA TO AGREEMENT CLAUSE

The contractors shall obtain a certificate of Registration from the Labour Department Govt. of Sikkim if they intend to employ interstate migrant workmen and abide by the Rules/ Terms condition laid down in the Notification No. Dt. 13.6.83.

Sd/-
L.B. Chetri
Secretary-Cum-Chief Engineer
Sikkim P.W.D. Gangtok.